***THE HONOURABLE MR.JUSTICE V.V.S. RAO**

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**+W.P. NO. 26459 OF 1999**

% 14-10-2004

#SMT. B. YASODHA, W/O. MUNI RATNAM,

PROPRIETOR OF JALAJASREE SILK SAREES,

R/O. D.NO.III-46-A-4, SCHOOL ROAD,

NEERUGATTIVARIPALLI, MADANAPALLI,

CHITTOOR DISTRICT.

...PETITIONER.

VS.

$ 1. THE BANKING OMBUDSMAN (ANDHRA

PRADESH) RESERVE BANK OF INDIA BUILDINGS,

Vth. FLOOR, 6-1-58, SAIFABAD, HYDERABAD-4

AND 3 OTHERS.

..RESPONDENTS.

! COUNSEL FOR THE PETITIONER:MR.C.V.NAGARJUNA REDDY

^ COUNSEL FOR RESPONDENT NO.2: MR. S. HANUMAIAH

^ COUNSEL FOR RESPONDENT NO.3: MR. P. SHIV KUMAR

^ COUNSEL FOR RESPONDENT NO.4: MR.G.DASARADHARAMI

REDDY

< Gist :

> Head Note :

? CITATIONS :

COMPUTER NO.24.

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

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PRESENT

**THE HON'BLE MR JUSTICE V.V.S.RAO**

**WRIT PETITION NO : 26459 of 1999**

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Between:

Smt. B. yasodha W/o Muni Ratnam
R/o D.No.III-46-A-4, School Road, Neerugattivaripali,
Madanapalli, Chittoor Dist.

**..... PETITIONER**

AND

-

1 The Banking Ombudsman (A.P.) Reserve Bank of India

Buildings, Vth Floor, 6-1-58, Saifabad, Hyderabad.
2 A.P. Handicrafts Development Corporation Ltd. rep. by

Managing Director, Hastkala Bhavan, R.T.C. 'X' Road,
Musheerabad, Hyderabad.
3 The Indian Bank Cocoon Market Branch, rep. by Branch

Manager, Suma Complex, Patel Road, Madanapalli,

Chittoor dist.
4 B.V.Reddy S/o B. Reddappa Reddy
D.No.IV-20-4-A-5-3, Krishnanagar,
Madanapalli, Chittoor dist.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate Writ declaring the Award of the 1st respondent made in Complaint No.161/98-99 dt:7-12-1999 as illegal, arbitrary, and un-enforceable.

**Counsel for the Petitioner: MR.C.V.NAGARJUNA REDDY**

**Counsel for Respondent No.2: Mr. S. Hanumaiah**

**Counsel for Respondent No.3: Mr. P. Shiv Kumar**

**Counsel for Respondent No.4: Mr. G.Dasaradha Rami Reddy**

**The Court made the following :**

**ORDER:**

The petitioner is a proprietor of Jalajasree Silk Sarees. She is aggrieved by an award dated 7-12-1999 of Banking Ombudsman (Andhra Pradesh), the first respondent herein in complaint No.161/98-99 whereby and whereunder the first respondent directed the third respondent to pay a sum of Rs.1,65,455/- (Rupees one lakh sixty five thousand four hundred and fifty five only) i.e., covered by two Demand Drafts dated 14-9-1998 and 15-10-1998 purchased by the second respondent herein.

The fourth respondent herein filed complaint No.161/98-99 before the first respondent against respondents 1, 2 & 3 herein as well as the Regional Manager of Indian Bank, Chittoor praying him to enquire into the matter and direct the third respondent herein to make good the loss sustained by the complainant. It is his case before the first respondent that he is carrying on business in Silk Sarees in the name and style of M/s. Jalajasree Silk Sarees; that he is having an account with Chittoor District Cooperative Central Bank, Madanapalli Branch; that he and the petitioner herein are dealing in Silk Sarees with the second respondent; that after receiving stock from the petitioner as well as fourth respondent, the second respondent issued invoices for consignment of sales accounts for the period from August 1998 to December 1998, and in the said transaction the second respondent issued two Demand Drafts in favour of the firm of the fourth respondent M/s. Jalajasree Silk Sarees, Madanapalli and sent them through the petitioner herein to deliver the same to the fourth respondent; that the petitioner played fraud and got the Demand Drafts credited to her account by misrepresenting facts to the third respondent; that the fourth respondent raised objection with the third respondent, in vain and therefore, he sought relief as mentioned hereinabove.

The first respondent issued notice to the third respondent Bank and based on the same passed award on 7-12-1999 directing as above. Curiously no notice was issued by the first respondent nor the petitioner was shown as opposite party, in spite of the fact that the fourth respondent in his complaint filed on 10-7-1999 has also arrayed the petitioner herein as second respondent.

This writ petition is filed assailing the award of the first respondent. Various contentions in relation to alleged arrears committed by the first respondent are raised. However, having regard to the admitted fact that the first respondent did not issue any notice to the petitioner nor the petitioner was given opportunity of being heard, I am not inclined to go into the various questions raised at this stage.

A reading of the proviso to Rule 17 (2) of the Banking Ombudsman Scheme, 1995 framed by Reserve Bank of India would show that the first respondent is required to comply with the principles of natural justice and fair play while conducting proceedings. Even if the procedure contemplated in Chapter-IV of the Scheme (Procedure for Redressal of Grievances) is silent, the first respondent while computing rights between two rival claimants as well as the Bank, cannot ignore the principles of natural justice. He is bound to issue notice to opposite parties and mere service of notice and receiving comments from the allegedly erring Bank would not satisfy the principles of natural justice. In a case like this if an order is passed without hearing the opposite party against whom serious allegations like fraud and misrepresentations are made, a person cannot be expected to seek exoneration without giving an opportunity of hearing.

The Writ Petition for the above reasons is allowed. The impugned award dated 7-12-1999 in complaint No.161/98-99 is set aside. The matter shall stand remitted to the first respondent with a direction to dispose of the matter within a period of four weeks from the date of receipt of this order, after giving an opportunity to the petitioner as well as the fourth respondent.

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**V.V.S. RAO, J.**

14th October, 2004

Js

L.R. copy may be marked.

That Rule Nisi has been made absolute.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday the Fourteenth day of October, Two thousand and four.

ASSISTANT REGISTRAR

To

One fair copy to the Hon'ble Mr. Justice V.V.S. Rao

(for his Lordship's kind perusal)

1 The Banking Ombudsman (A.P.) Reserve Bank of India

Buildings, Vth Floor, 6-1-58, Saifabad, Hyderabad.

2 The Managing Director, A.P. Handicrafts Development

Corporation Ltd. Hastkala Bhavan, R.T.C. 'X' Road,
Musheerabad, Hyderabad.

3 The Branch Manager, Indian Bank Cocoon Market

Branch, Suma Complex, Patel Road, Madanapalli,

Chittoor dist.

4 2 CD copies.

5 8 L.R. Copies.

6 The Under Secretary, Union of India, Ministry of Law, Justice and

Company Affairs, New Delhi.

7 The Secretary, A.P. Advocates Association Library, High Court

Buildings, Hyderabad.